

LEAFLET 45**CONTRACTOR SELECTION****CONTENTS**

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LEAFLET FOR LINE MANAGERS**STATUTORY REQUIREMENT**

1 The Health and Safety at Work Act 1974 (HSWA) requires both employers and the self employed to ensure the health and safety of both their employees and non-employees. To this end clients and contractors must therefore pay close attention to the requirements of section 3 of HSAWA.

DEFINITIONS**Contractor**

2 Workers not directly employed by the MOD or non MOD organisations carrying out work activities on MOD owned or controlled sites at the request of the MOD.

DUTIES**Demanding officers**

3 Must ensure that adequately detailed specifications for the work to be done are produced. This specification is to include health, safety and environmental matters.

Contract Authority

4 Must ensure that a person competent to assess the health, safety and environmental issues of the proposed contract are included in the tender evaluation process and that his views are documented.

RECORDS

5 The contracting authority will retain the contractor evaluation documentation for the duration of the contract and archived for a further 2 years or in accordance with any local instruction.

RELATED LEAFLETS

6 Related Leaflets

- Leaflet - Health and Safety in Construction and the Management of Construction on the Defence Estate
- Leaflet - The Management of Contractors and other Visiting Workers (including MOD agencies) within the MOD

LEAFLET 45 ANNEX A**CONTRACTOR SELECTION****CONTENTS**

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GUIDANCE FOR LINE MANAGERS

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GUIDANCE FOR LINE MANAGERS**INTRODUCTION**

1 The Health and Safety at Work Act 1974 (HSWA) requires employers to ensure the health and safety of both their employees and others who might be affected by the work. To this end both clients and contractors must therefore pay close attention to the requirements of section 3 of HSAWA.

2 The Management of Health and safety at Work Regulations will also always apply to contract work and requires both the client and contractors to:

2.1 Make suitable and sufficient assessments of the risks faced by their employees and by non-employees.

2.2 Co-operate and co-ordinate their health and safety measures e.g. each organisation must supply the other with all relevant health and safety information and ensure that work activities are not in conflict.

3 In addition to the HSWA and the Management of Health and Safety at work Regulations other regulations may need to be considered, such as the Construction Design and Management Regulations. Competent advice will need to be obtained at the earliest point in the contract cycle to effectively identify and comply with the legal duties placed on the client.

4 Cases that have been decided in court have found that clients must act in a responsible manner while selecting contractors and that:

4.1 Where the contract work is deemed to come within the normal business of the clients undertaking then the client will be seen as having control over the work.

4.2 The degree of control a client has over a contractors activities determines what is 'reasonably practicable' for a client to do to control the risks relating to the work.

5 The financial and legal liabilities that may be incurred if health, safety and environmental issues are not competently addressed can be significant.

Consider what needs to be done

6 Before finding out who can do the job the question of what work needs to be done, how quickly and to what standard must be clearly understood by those who want the work done. This will enable the work package to be carefully defined, including key targets and standards to which it must be done and so enable the risks to the MOD for the work to be assessed.

7 The work package will always include the requirement for the contractor to fully comply with the contractor control system in place at the location of the work package (See Leaflet - The Management of Contractors and other Visiting Workers (including MOD agencies) within the MOD) and may call upon Crown Fire Standards; DE standards, British Standards etc. as appropriate. Only when this information is available can the risk to the MOD from the task be identified, and so the type of contractors needed identified.

8 For Example

8.1 For cleaning: a list should be drawn up of all areas to be cleaned, to what standard and at what frequency.

8.2 For mechanical and electrical services: a list of plant to be maintained, and operating conditions to be achieved, should be compiled.

9 Additionally it will be necessary to consider initial issues as:

9.1 Does the work come under the Construction (Design and Management) Regulations 1994

9.2 How long is it expected to take?

9.3 Is there likely to be more than one contractor involved?

9.4 Who are the individuals/teams within the organisation who should be involved?

9.5 Who is going to "project manage" for the client organisation?

9.6 What other parties should be involved (e.g. local authority planning dept., building control in Scotland, Health and Safety Executive (HSE), neighbouring establishments, firms or individuals who might be affected).

9.7 Any safety procedures that might require immediate attention, before the main contractor is appointed.

CONTRACTOR SELECTION

10 The potential contractors could be informed of the contract by advertising or by direct selection from an approved list, or other source, however advice should be sought from your contracting authority before any action is taken. They should then be sent a copy of the tender specification and a tender health and safety questionnaire, which they are required to complete. They should also be supplied with any relevant health and safety information, not only to help them price the contract but also to enable them to identify the health and safety risks involved. The provision of such information will also enable the MOD client to discharge his duties to ensure the health and safety of contractors and those affected by their activities. The hazard register from the control of contractors procedures may form part of this information. In contracts subject to the Construction, (Design and Management) Regulations 1994, this will be taken care of through the planning supervisor's preliminary health and safety plan.

11 In some cases a shorter pre-tender questionnaire may be required to assist in reducing the number of interested organisations down to a shortlist, who will then be invited to tender and subsequently be given more specific details and a more detailed tender questionnaire if invited to tender. Relevant questions can be asked at either stage but should not be asked twice if possible.

12 The purpose of the questionnaires is to ensure that:

12.1 There is a consistent approach in terms of the questions asked of all the contractors tendering for the work

12.2 All the information required to judge the suitability of the contractor is available to those who will be awarding the contract.

13 An example of a tender questionnaire is provided at the end of this guidance at Annex B Selection Questionnaire

14 Should short listing be used then these Questionnaires will need to be evaluated against a predefined set of criteria and scoring. These must be established before the questionnaires are viewed, and should not be changed during the process. The shortlisting process will select a limited number of contractors that match or exceed the required criteria.

INVITATION TO TENDER

15 After the short listing process a limited number of contractors will be invited to tender for the contract. The contractors invited to tender must submit their tender, questionnaire and supporting documentation by a certain time and date. Further advice should be sought from your contracting authority before any action is taken. It is important to note that in many cases where the contract is small or an employment agency is used, the client may not require a full tendering process and might instead ask for quotations from perhaps three of the organisation on the approved contractors list. In some cases where the cost of the work falls below a certain level, e.g. £5000, the client may allow the work to be directly placed with a single contractor and use standard letters or order forms. More complicated or expensive works will require full contracts.

Health and Safety Questions

16 Tender questionnaires can run to many pages as they may include questions about the contractor, its business and financial affairs, technical competence, current contracts, personnel matters, etc, as well as health and safety. The information that the client needs from the potential contractors will depend largely on the nature of the contract. There are some very general issues that need to be considered for most contracts. The Contractor Selection Questionnaire at the end of this section includes a number of health and safety topics for consideration.

17 Health and safety information for the contractor Once the client has produced the tender or contract specification, it should be able to identify those areas which require the submission of specific health and safety information by the contractor. In most cases the client will need to undertake initial risk assessments of the proposed work and the area in which it will take place so that full information is passed on to the contractors. As stated previously, for contracts subject to the Construction (Design and Management) Regulations 1994, these matters will be dealt with in the planning supervisor's preliminary or pre-tender health and safety plan.

Tender Evaluation

18 The purpose of tender evaluation is to ensure that the contract is awarded to the most cost-effective tenderer. However, the evaluation must not be based purely on financial considerations. It should also consider:

18.1 Technical capacity, including health, safety and environment

18.2 Health, safety, environmental and contractual compliance.

19 It is important that the same person or team of people evaluates the tenders, in order to ensure a consistent evaluation approach. The evaluation panel should consist of a group of people who have experience in the particular aspects to be covered. For large contracts, it might consist of:

- 19.1 Finance officer.
- 19.2 The lead client officer who will co-ordinate the efforts of other personnel
- 19.3 Health and safety advisor
- 19.4 Contracts officer
- 19.5 Human resources officer, who may be required to advise on certain personnel aspects.

20 During the final tender evaluation process, the evaluation panel might visit the individual contractors or some of their current projects. This would enable the client to see whether they actually put into practice what they include in their documentation.

21 In some cases potential contractors are required to make presentations to the client, so that you can question them on their proposal and use this in the evaluation process. This is standard procedure in many local authorities for awards of larger contracts when the number of potential contractors has reached the shortlisting stage.

Obtaining Evidence of Competence

22 The client may have already stipulated in the tender document or contract specification the particular qualifications and level of competence that will be required from the contractor. This is particularly important in high-risk activities, e.g. construction, catering, mechanical and electrical services. It may be less important in "low-tech" areas, e.g. grass cutting.

23 Where such requirements have not been stipulated, the client will have to satisfy itself by other means that the contractor is competent to take on the work. The client will need to ask a series of questions about competence, and these could be included in the pre-tender and tender questionnaires (an example of which can be found at Annex B). Further questions can also be asked on site if site visits are made during the selection process.

Assessing the Evidence

24 Whatever questions have been asked, the client must be satisfied with the answers. This may entail further checking with other sources, rather than just accepting the word of the tendering organisation. Therefore when questions are asked about competence, training, qualifications or memberships of trade associations or professional bodies, the client should ask for copies of the certificates or other proof.

25 Where the client specifies that it needs certain types of key employees who are trained to recognised standards and/or members of professional bodies, it must ask to see copies of their certification or other evidence. The same will apply to copies of training certificates.

26 Additionally, the client should ask for details of training dates, course prospectuses, instructors, and syllabuses of any general health and safety training, including induction courses and training on general topics. If the tendering organisation genuinely wishes to work for the client and considers health and safety a high priority, then it should be only too willing to supply this information.

27 Training should not stop once the contract has been won. It is important to ask about future training programs, particularly induction course details for employees who are recruited after the contract has been awarded, and for those who progress to supervisory positions. Training is an ongoing activity, particularly where it relates to those courses and qualifications, which are required to be regularly renewed, such as first aid, certain driving tests, and various other activities.

28 Where certain qualifications or competencies have been identified in the tender documentation or contract specification, the submitted replies will need to be compared with them. Another factor to be assessed is whether the contractor has sufficient people with the right levels of competence to undertake the tasks. These questions and model answers should have been detailed before the contract procedure was undertaken and would form part of the contract evaluation scoring.

29 In certain professions, such as the law, medicine and even safety, particular categories of members of professional bodies are now required to undertake continuing professional development to maintain their professional status and membership. It is important to ensure that any membership certificates are still current. (It is also important to make sure that such professionals, as well as other employees, are given the resources to maintain their level of competence.)

30 As far as membership of trade associations and professional bodies is concerned, the contractor's letterhead could be a good indication as many are proud to show which associations they belong to. However, if the client has any doubts about the authenticity of any such claims, it should always check with the particular association or body. They will normally provide confirmation or otherwise, as they also do not want rogue organisation falsely claiming to be their members.

31 Gaining advice on the level of competence required can be difficult to ensure that the contractor is actually competent, especially when the client is relying on it as one of the experts in its field. In such a case it is worth contacting relevant trade organisation, professional bodies or other colleagues to ask what qualifications, training and experience they would accept as indicating competence. It may also be necessary to consider the contractor's standards in relation to the standards the client expects of its own employees.

Documenting the Assessment Process

32 During the whole process of contractor evaluation, accurate records must be kept of what documentation is sent out, who has indicated interest in being considered for the tender, who was invited to tender, etc. All of these records must be kept for a period of time after the contract has been awarded in case one of the unsuccessful contractors challenges the result or process.

33 The use of questionnaires, evaluation forms and marking schemes ensures that there is consistency across the whole process and that each contractor is treated the same. It is important that correspondence is accurately dated, particularly that received from contractors. All evaluation forms should be signed by the person undertaking the evaluation. Originals should be kept separate from copies. If challenged, the client should be able to demonstrate the whole tender evaluation process in a logical manner, indicating how and why questions were asked and answered. The reasons for asking certain questions and requiring certain standards must be easily defensible.

34 It is useful to produce a summary sheet of all those who were invited to tender, with all of their individual scores, any minimum standards set, the evaluation scores and particular points to note. This sheet should also identify the final successful contractor. Where any organisation have not been considered, the reasons for this should be clearly set out.

AWARDING THE CONTRACT WORK

35 Once it has been decided to whom the contract will be awarded, all unsuccessful organisations should be notified, but not told who won or why they failed. The successful organisation should be told at the same time.

Establishing Procedure for Monitoring

36 The last stage is to establish the process for monitoring the progress of the contract. The client will need to ascertain whether the contractor is completing the work in the time scale required, to the specified standard and in a safe and healthy manner for all those concerned.

37 It is important that regular meetings are held between the client and the contractor to ensure that issues can be discussed and problems rectified. Monitoring might also entail announced and unannounced inspections and visits. The client should reserve the right to suspend the contractor's activities or work if requirements of health and safety legislation or other contract conditions are not being met. Details of the monitoring process must be included in the contract in order to ensure that the contractor is aware of the process. If the work is undertaken with the full requirements of the Construction Design and Management Regulations being applied the monitoring method will form part of the project Health and Safety Plan.

LEAFLET 45 ANNEX B

CONTRACTOR SELECTION

ESTABLISHING HEALTH AND SAFETY REQUIREMENTS

Risks associated with the contract	Contractor must be able to demonstrate	MOD Action to Select Contractor
<p>High potential risks to Health, Safety or Environment</p> <p>Or</p> <p>Long Duration Contract</p>	<p>Comprehensive and effective safety management system</p> <p>Extensive in house resources</p> <p>Highly skilled, trained and motivated workforce</p> <p>Appropriate references, registrations and insurance's</p>	<p>Carry out extensive pre-qualification investigation to confirm contractor is appropriate to undertake the work package. Establish if adequate and effective safety management system, resources and H&S training is in place. References, registrations and insurances should be checked.</p> <p>Visits and meeting will certainly be needed to establish that the requirements are in place.</p>
<p>Medium potential risks to Health, Safety or Environment</p> <p>with</p> <p>Medium to Short Duration Contracts</p>	<p>Appropriate safety management system for the type of contract</p> <p>Appropriate resources</p> <p>Skilled and trained workforce as required by the type of work</p>	<p>Carry out suitable pre-qualification investigation to ensure that the contractor can carry out the defined work within the standards specified.</p> <p>References, registrations and insurances should be checked.</p> <p>Visits and/or meeting may be needed</p>
<p>Low potential risks to Health, Safety or Environment</p> <p>with</p> <p>Short Duration Contracts</p>	<p>Basic health and safety management system</p>	<p>Pre-qualification questionnaire and possible meeting.</p> <p>References, registrations and insurance's should be checked</p>

Contractor Selection Questionnaire	
Description of work to be undertaken:	
Contract number:	
Company name:	Companies House Registration
Names of directors:	Number of employees:
Please attach a brief description of the experience that your company has in undertaking the type of work for which you are bidding.	Supplied Yes/No
Please attach a copy of your current Health and Safety Policy and any section relating to organisation.	Supplied Yes/No
Please attach a copy of your safety arrangement that you have that may be relevant to this contract.	Supplied Yes/No
Please attach details of competencies held by persons appointed under Management of Health and Safety at Work Regulations 1999, Regulation 7, that would be deployed on this contract.	Supplied Yes/No
Please attach sample copies of the method statement (safe system of work) and associated risk assessments that you have produced for other work activities. e.g. <ol style="list-style-type: none"> 1. General risk assessments 2. COSHH assessments (including Material safety Data Sheets) 3. Manual Handling assessments 4. Noise assessments 	Supplied Yes/No
Please provide details of the health, safety and environmental training provided to your staff and what training you plan to provide if you win the contract.	Supplied Yes/No
Please provide an outline of the significant health, safety and environmental risks that you feel are associated with this contract and how you would control them.	Supplied Yes/No
Will you use on site sub-contractors to undertake part or all of the work required to fulfil this contract. YES/NO If yes please provide details of how you would ensure their competence and control their activities	Supplied Yes/No (If applicable)
Please provide details of any RIDDOR reports raised by your organisation in the past 2 years.	Supplied Yes/No (If applicable)
Have the Health and Safety Executive, Local Authority or Environment agency taken any action (enforcement notices, legal proceedings etc.) against you organisation in the last five years YES/NO If yes please provide details.	Supplied Yes/No (If applicable)